

**REMARKS**

Favorable reconsideration of the application is respectfully requested in light of the amendments and remarks herein.

Upon entry of this amendment, claims 1-4 and 6-8 will be pending. By this amendment, claim 5 has been canceled, claims 1-4 have been amended, and claims 6-8 have been newly added. No new matter has been added.

**§102 Rejection of Claims 1 and 3**

In Section 1 of the Office Action, the Examiner has rejected claims 1 and 3 under 35 U.S.C. §102(e) as being anticipated by Kim (U.S. Patent No. 6,681,120). Claim 1 has been amended to address the rejection.

In the Background section of the Specification, it was disclosed that because music downloading “procedure take much trouble and is inconvenient, there are demand to enable the reproduction of an audio signal distributed by a music distribution server by a portable apparatus more easily.” *Background of the Specification, page 2, lines 10-13*. Thus, the Background highlights the shortcomings of the conventional music distribution system.

To address the shortcomings of the conventional music distribution system, embodiments of the present invention provide a portable communication apparatus including a reproducing processor having a capability to directly process and reproduce the audio signal on the portable apparatus for both streaming audio and non-streaming audio modes. Support for the dual mode configuration can be found on page 10 of the Specification.

In particular, the structure of portable communication apparatus claim 1, as presented herein, includes:

“a communication means for making calls and receiving audio signal distributed from a server by a digital wireless system;

a memory means for buffering and processing the audio signal when the audio signal is to be reproduced in real time, and otherwise for recording the audio signal received by the communication means;

a reproduction means for reproducing the audio signal retrieved from the memory means, said reproduction means configured to enable *a dual operational mode including a streaming audio mode and a stored audio play mode*; and

an output means for output in accordance with the reproduced audio signal.”

*Claim 1 (emphasis added)*

Kim, however, fails to teach or suggest a portable communication apparatus including (1) a means for buffering and processing the audio signal when the audio signal is to be reproduced in real time, and otherwise for recording the audio signal received by the communication means, and (2) a reproduction means for reproducing the audio signal retrieved from the memory means, said reproduction means configured to enable a dual operational mode including a streaming audio mode and a stored audio play mode.

Based on the foregoing discussion, it is maintained claim 1 should be allowable over Kim. Further, since claim 3 depends from claim 1, claim 3 should also be allowable over Kim.

Accordingly, it is submitted that the Examiner’s rejection of claims 1 and 3 based upon 35 U.S.C. §102(e) has been overcome by the present remarks and withdrawal thereof is respectfully requested.

§103 Rejection of Claims 2 and 4

In Section 2 of the Office Action, the Examiner has rejected claims 2 and 4 under 35 U.S.C. §103(a) as being unpatentable over Kim in view of Adams (U.S. Patent No. 6,594,366).

Since claims 2 and 4 depend from claim 1, claims 2 and 4 should be allowable over Kim.

It was indicated that Adams teaches a headset/radio auto sensing jack for use with a mobile terminal. It was further indicated that Adams teaches that the reproduction means is able to perform stereo reproduction and the output means performs stereo output in response to the audio signal. Thus, Adams fails to teach or suggest all the limitations recited in claim 1, as presented herein. Therefore, Kim and Adams, in combination or individually, fail to teach or suggest all the limitations recited in claim 1.

Based on the foregoing discussion, it is maintained claims 2 and 4 should be allowable over the combination of Kim and Adams.

Accordingly, it is submitted that the Examiner's rejection of claims 2 and 4 based upon 35 U.S.C. §103(a) has been overcome by the present remarks and withdrawal thereof is respectfully requested.

§103 Rejection of Claim 5

In Section 3 of the Office Action, the Examiner has rejected claim 5 under 35 U.S.C. §103(a) as being unpatentable over Kim in view of Fong *et al.* (U.S. Patent No. 6,493,328; hereinafter referred to as "Fong"). Claim 5 has been canceled.

Accordingly, it is submitted that the Examiner's rejection of claim 5 based upon 35 U.S.C. §103(a) has been overcome by the present remarks and withdrawal thereof is respectfully requested.

Newly-added Claims 6-8

Independent claim 6 is a method claim that closely parallels, and includes substantially similar limitations as, independent claim 1. Therefore, claim 6 should be allowable over the cited prior art references. Further, since claims 7 and 8 depend from claim 6, claims 7 and 8 should also be allowable over the cited prior art references.

Conclusion

In view of the foregoing, entry of this amendment, and the allowance of this application with claims 1-4 and 6-8 are respectfully solicited.

In regard to the claims amended herein and throughout the prosecution of this application, it is submitted that these claims, as originally presented, are patentably distinct over the prior art of record, and that these claims were in full compliance with the requirements of 35 U.S.C. §112. Changes that have been made to these claims were not made for the purpose of patentability within the meaning of 35 U.S.C. §§101, 102, 103 or 112. Rather, these changes were made simply for clarification and to round out the scope of protection to which Applicant is entitled.


In the event that additional cooperation in this case may be helpful to complete its prosecution, the Examiner is cordially invited to contact Applicant's representative at the telephone number written below.

The Commissioner is hereby authorized to charge any insufficient fees or credit any overpayment associated with the above-identified application to Deposit Account 50-0320.

Respectfully submitted,

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